



U.S. Department of Justice

United States Attorney¹⁸
District of Massachusetts

Direct: (508) 368-0104

Donohue Federal Building
595 Main Street
Worcester, MA 01608

September 7, 2005

BY FAX AND BY MAIL

Keith Halpern, Esq.
4 Longfellow Place
Boston, MA 02114

Re: **United States v. Richard Botchway**
Criminal No. 05-40035-FDS

Dear Mr. Halpern:

Pursuant to Fed. R. Crim. P. 16 and Rules 116.1(C) and 116.2 of the Local Rules of the United States District Court for the District of Massachusetts, the Government provides the following automatic discovery in the above-referenced case:

A. Rule 16 Materials

1. Defendant's Oral Statements under Rule 16 (a) (1) (A)

The substance of Defendant's oral statements to law enforcement have been previously provided to you as reflected in written reports and/or testimony of Special Agent Patrick Cummings.

A personal history/booking sheet for Defendant is enclosed herein as a Form I-213.

b. Written or Recorded Statements

The Government is not aware of any recorded statement of Defendant. Defendant's Miranda waiver was provided previously to you.

c. Grand Jury Testimony of the Defendant

Defendant did not testify before the grand jury.

2. Defendant's Prior Record under Rule 16 (a) (1) (D)

I understand that you have received a copy of your client's criminal record from Pretrial Services. If you need another copy, then please let me know.

3. Documents and Tangible Objects under Rule 16(a) (1) (E)

All books, papers, documents and tangible items which are within the possession, custody or control of the Government, and which are material to the preparation of Defendant's defense or are intended for use by the Government as evidence in chief at the trial of this case, or were obtained from or belong to the Defendant may be inspected by contacting ICE Special Agent Patrick Cummings, at 617.828.4565 and making an appointment to view the same at a mutually convenient time.

4. Reports of Examinations and Tests under Rule 16 (a) (1) (F)

A forensic laboratory report from the U.S. Department of Homeland Security, dated August 5, 2005, has been provided to you previously.

On August 30, 2005, I provided you with the output of a computer forensic search which was conducted on a Quantum computer, pursuant to a search warrant.

B. Search Materials under Local Rule 116.1(C) (1) (b)

On August 16, 2005, I provided you with a copy of an application and affidavit in support of a search warrant concerning various computer equipment. On August 24, 2005, I provided you with a copy of the search warrant and return.

ICE Special Agent Patrick Cummings conducted a search of Mr. Botchway's person on July 14, 2005, when he took him into custody. Special Agent Cummings seized Mr. Botchway's wallet and cellphone. A subsequent search of Mr. Botchway's wallet turned up numerous receipts. Photocopies of the receipts are enclosed herein. Special Agent Cummings returned Mr. Botchway's wallet and cellphone by providing the same to counsel.

C. Electronic Surveillance under Local Rule 116.1(C)(1)(c)

No oral, wire, or electronic communications of the Defendant as defined in 18 U.S.C. § 2510 were intercepted relating to the charge in the indictment.

D. Consensual Interceptions under Local Rule 116.1(C)(1)(d)

None.

E. Unindicted Coconspirators under Local Rule 116.1(C)(1)(e)

None.

F. Identifications under Local Rule 116.1(C)(1)(f)

The Defendant was not the subject of an investigative identification procedure used with a witness the Government anticipates calling in its case-in-chief involving a line-up, show-up, photo spread or other display of an image of Defendant.

2. EXCULPATORY EVIDENCE-- L.R. 116.2

a-b. Evidence Tending to Negate Defendant's Guilt or Cast Doubt on Admissibility of Evidence-- L.R. 116.2(B)(1)(a) and (b)

Any such exculpatory evidence of which the Government is aware is contained in the materials produced herein and in previous productions.

c. Promises, Rewards, and Inducements

None.

d-e. Criminal Records of Witnesses and Pending Criminal Cases

Criminal records checks of the Government's anticipated witnesses at trial will be conducted.

f. Failure of Percipient Witness to Make Identification

None.

g. Other Matters

The Government is aware of its continuing duty to disclose newly discovered additional evidence or material that is subject to discovery or inspection under Local Rules 116.1 and 116.2(B)(1) and Rule 16 of the Federal Rules of Criminal Procedure.

The Government requests reciprocal discovery pursuant to Rule 16(b) of the Federal Rules of Criminal Procedure and Local Rule 116.1(D).


The Government demands, pursuant to Rule 12.1 of the Federal Rules of Criminal Procedure, written notice of the Defendant's intention to offer a defense of alibi. The date and place at which the offense was committed is set forth in the indictment.

Please call the undersigned Assistant U.S. Attorney at 508 368-0104 if you have any questions.

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By:


JOHN M. HODGKINS, JR.
Assistant U.S. Attorney

Enclosures

cc: Lisa Roland (w/o enclosures)✓
Clerk to the Honorable Charles B. Swartwood, III

ICE Special Agent Patrick Cummings